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and the Utah Division of Consumer Protection

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DAY PACER LLC, et al.,

Defendants,

AO PAUGA and UTAH DIVISION OF
CONSUMER PROTECTION

Non-Party Movants.

**NON-PARTY AO PAUGA'S
DECLARATION IN SUPPORT OF
MOTION TO QUASH PURSUANT TO
FED. R. CIV. P. 26(c) & 45, AND
DUCivR 26(b) & 37-1**

United States District Court
Northern District of Illinois, Eastern
Division
Case Number: 1:19-cv-01984
Judge Edmond E. Chang

I, Ao Pauga, declare as follows:

1. I am over the age of 21 and a resident of the State of Utah. I have personal knowledge of the matters and facts set forth herein, and if called to testify, I could and would competently testify to the same.

2. I am employed as an Investigator for the Utah Department of Commerce, Division of Consumer Protection (the “Division”). My responsibilities include reviewing complaints lodged with the Division and investigating whether individuals and businesses have violated Utah’s consumer protection laws.

3. The Division is not part of the FTC’s lawsuit against Day Pacer LLC.

4. I was the primary investigator with respect to Day Pacer. I visited Day Pacer’s facility once, in either late 2016 or early 2017, for the purpose of speaking to someone in charge. I spoke to Mr. Raymond Fitzgerald’s son there. I do not recall his first name. I did not hear or see anything substantive regarding Day Pacer’s business operations. I merely observed that the location appeared to be a sales floor.

5. My knowledge of Day Pacer LLC and its owners, principals, or employees comes from my investigative work for the Division.

6. The Division and I assert the government deliberative privilege and law enforcement privilege over my internal communications with my supervisor, Chief Investigator Adam Watson, regarding my investigatory work into Day Pacer, as well as our internal assessments, opinions and conclusions regarding that investigation. My internal communications with Watson involved investigative techniques, confidential sources of information, and our deliberations, assessments, and opinions about the targets of the investigation.

I declare under criminal penalty under the laws of the United States that the foregoing is true and correct.

Signed on the 4th day of January 2021, at Salt Lake City, Utah.

/s/ Ao Pauga*
Ao Pauga

* I certify that I have the signed original of this document which is available for inspection during normal business hours by the Court or a party to this action.

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of January 2021, I served the foregoing **NON-PARTY AUO PAUGA'S DECLARATION IN SUPPORT OF MOTION TO QUASH PURSUANT TO FED. R. CIV. P. 26(c) & 45, AND DUCivR 26(b) & 37-1** by email to counsel for the parties in the underlying action shown on the attached service list.

/s/ Joni Ostler

Joni Ostler

1:19-cv-01984 Federal Trade Commission v. Day Pacer LLC et al.

Edmond E. Chang, presiding

Young B. Kim, referral

Date filed: 03/22/2019

Date of last filing: 12/21/2020

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